

normally permitted in direct statements and ranges normally permitted in maximum and minimum statements, alcoholic content statements, whether required or optional, shall definitely and correctly indicate the class, type and taxable grade of the wine so labeled and nothing in this section shall be construed as authorizing the appearance upon the labels of any wine of an alcoholic content statement in terms of maximum and minimum percentages which overlaps a prescribed limitation on the alcoholic content of any class, type, or taxable grade of wine, or a direct statement of alcoholic content which indicates that the alcoholic content of the wine is within such a limitation when in fact it is not.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-275, 53 FR 27046, July 18, 1988]

§ 4.37 Net contents.

(a) *Statement of net contents.* The net contents of wine for which a standard of fill is prescribed in § 4.73 shall be stated in the same manner and form as set forth in the standard of fill. The net content of wine for which no standard of fill is prescribed in § 4.73 shall be stated in the metric system of measure as follows:

(1) If more than one liter, net contents shall be stated in liters and in decimal portions of a liter accurate to the nearest one-hundredth of a liter.

(2) If less than one liter, net contents shall be stated in milliliters (ml).

(b) *Statement of U.S. equivalent net contents.* When net contents of wine are stated in metric measure, the equivalent volume in U.S. measure may also be shown. If shown, the U.S. equivalent volume will be shown as follows:

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 500 ml (16.9 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces will be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml (23.7 fl. oz.).

(3) Equivalent volumes of 100 fluid ounces or more will be stated in fluid

ounces only, accurate to the nearest whole fluid ounce; for example, 6 liters (203 fl. oz.).

(c) *Net contents marked in bottle.* The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the appropriate ATF officer, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(d) *Tolerances.* Statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers, resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(e) *Unreasonable shortages.* Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

[T.D. ATF-12, 39 FR 45222, Dec. 31, 1974, as amended by T.D. ATF-49, 43 FR 19848, May 9, 1978; T.D. ATF-76, 46 FR 1727, Jan. 7, 1981; T.D. ATF-303, 55 FR 42713, Oct. 23, 1990]